1946.

File No. O/Railways/46

Legal Department

A BRANCH

Subject:–

Opinions under the

Railways (Local Authorities Taxation)

Act 1941

File No. O/ Railways/46

Gen. 194 e.

287 A

C O N T E N T S

Legal Department File No. O. Railways/46

Sr.No.	R.I./O.No.	Subject.	Pages.
		Opinions under the Railways (Local Authorities Taxation) Act,1941.	
1.	R.I.No. 1630 21-2-46. O.N. 2896 16-4-46.	Re: Payment to be made to the Municipality on account of general sanitory cess and the general water rate in respect of Rly. properties within Municipality limits.	1-4.
2.	O.N. 2950 18-4-46.	----- do ------	5-8.

JPE.12/7/56.
45 copies.

RHL 3/8

NMD 5/4

L.D.R.I.No.1630/21-2-46.

Submitted with reference to the G.D. notes at pp. 63-65 ante.

2. On a proposal from the Dharwar Muny. that the M.& S.M. Rly.Co.(a State owned railway) should be made liable to pay to the Muny. the general sanitary cess and the general water rate in respect of the railway properties within the municipal limits, the G.D. referred the matter to the Railway administration for its remarks. The Railway did not agree to the Municipality proposal on the ground that no specific service was rendered by the Mny. to the Rly. in return for the taxe Considering the argument advanced by the Railway to be untenable, G. D. supported the Muny's proposal to the Government of India with a request to issue thenecessar notification under section 3 of the Railways (Local Authorities Taxation) Act, 1941 declaring the liability of the M. & S. M. Rly. Co., to pay the taxes in questio to the Dharwar Muny. The Government of India, however, was not inclined to agree to the Muny's proposal on the ground that the Railway did not derive any benefit from the facilities provided by the Muny., as the Rly., had its own water supply and conservancy arrangements, and that the house tax paid by the Rly. might be taken to cover any other general amenities. That Government further observed that the liability of the Railways to local taxation should have some relation to the benefits derived by them from the services rendered by the local bodies and that this principle had been embodied in the Railway (Local Authorities' Taxation) Act, 1941, and requested this Government to reconsider the position in the light of the above observations. The Commrs., who were then consulted in the matter, a greed that no

exemption..

exemption from the taxes should be granted to the Rly. as authorities as indirectly the benefits afforded by the local authority were also enjoyed by the occupants of the Railway premises, and that if the Rly. is allowed to have an exemption on the gound that it has its own water and sanitary arrangements, other private parties would also claim exemption on the same ground. The Government of India was again addressed by G.D. on these lines but that Government has pointed out that Rly. property is not on the same footing as other private property and that the provisions of section 135 of the Indian Railways Act, 1890, and of the Railways (Local Authorities' Taxation) Act, 1941, place the local taxation of Rly. property on a special basis in that the principle regulating the liability of Railways should be services rendered to the Railway. On a point raised by the Secy.G.D. as to whether R.L.A.'s opinion has been taken on the question whether the Railway(Local Authorities' Taxation) Act, 1941, lays down the principle that the Rly's liability to pay tax should have some relation to the benefit derived by the Rlys. from the service rendered by the local bodies, it has been pointed out G.D. office not at pp. 63-65 ante. that the point had not referred to the R.L.A. previously and that the provisions contained in sec.3 of the above Act make it amply clear that the acceptance of liability to pay any tax would be dependent on the rendering of some tangible service to the Rly.by the local authority, the Central Govt. having full discretion to accept such a liability. Secy.G.D. while agreeing with the above view has requested the R.L.A. to confirm the same.

Id/- R.N.M. 15/4/46

Office of the R.L.A.

Seen and returned.
The view taken by G.D. is correct.

Id/- P.N.M. 16/4/46
R.L.A

J.R. to G.D.,No.2896, dated the 16th April 1946.

JPE.12/7/56.4c.

L.D.R.I.No.1825
1-3-46.

As the Baramati Municipality is demanding the General Sanitary cess from G.I.P.Rly. on the strength of the G. OF I., Rly. Board, Notfn.No.9978F, dated the 13th May 1936, the fact preferred to in para 5 of the General Manager's letter at p. 1 ante i.e. the property of the Dhond Baramati Railway Co. vests in Govt. from 30-9-1944 has not been taken into consideration for the purpose of the reference

2. The view taken by the General Manager, G.I.P.Rly. is correct. The General Mager does not dispute the liability arising out of the notification to pay the General Sanitary cessk, in respect of property at Baramati. What he contends is that the Baramati Municipality has waived the benefit given to it by the notification by revising in 1940 i.e. subsequentk to the date of notification, its Shedule ~~i~~ exempting all Govt. building from the payment of General Sanitary cess and that the G.I.P.Rly. being now a state owned railway its properties vest in the Crown and are therefore exempt from the payment of General Sanitary cess. So long as the said schedule has not been amended by excluding the railway properties from its scope the Baramati Municipality cannot legally demand or recover the General Sanitary cess in respect of property at Baramati from the year 1943-1944 from which year the Railway has disclaimed its liability(vide para.3 of the letter atp.1).

A.A.L.R. -- I agree Reply may be:-

Seen and returned.

The view taken by XK G.D. is correct.

Id/- R.T.K. 11/4

R.L.A. ---- I agree
Id/- P.N.M. 16/4/46.

Office of the R.L.A

Seen and returned.

The view taken by G.D. is correct.

Id/- P.N.M. 17/4/46.

Remembrancer of Legal Affairs.

U.R. to G.D.,No.2950,
dated 18-4-46.